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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/980,604

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Miruka Ishii

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EXAMINER

TRAN, HAI

ART UNIT

PAPER NUMBER

3694

MAIL DATE

DELIVERY MODE

12/28/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

09/980,604

**Applicant(s)**

ISHII ET AL.

**Examiner**

Hai Tran

**Art Unit**

3694

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3,5-7,9-13,15-19,21-23,26-30,32 and 33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,5-7,9-13,15-19,21-23,26-30,32 and 33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/15/2001</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This is the communication in response to Amendments filed on September 25, 2007, titled: "Investment System and Data Transmitting/Receiving Method".
2. Claims 1, 3, 5, 19, 21-23, 26-30, 32, and 33 have been amended. Claims 2, 4, 8, 14, 20, 24, 25, 31, and 34-125 have been cancelled.
3. Claims 1, 3, 5-7, 9-13, 15-19, 21-23, 26-30, 32, and 33 are pending in this application and have been examined.

### ***Priority***

4. This application is a 371 of PCT/JP01/01692, filed March 5, 2001 and claims the benefit of foreign applications JAPAN P2000-081859, filed March 17, 2000; JAPAN P2000-115772, filed April 11, 2000; and JAPAN P2000-301398, filed September 29, 2000.

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:  

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
6. Claims 3, 9, 19 and 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More specifically,
7. Claims 3 and 19 recite the phrase "investment ticket" is unclear what it means. Paragraph 9 explains the "investment ticket" as similar to an ordinary stock transaction,

but it still is unclear as exactly what it means. For the examination purpose, the Examiner interprets "investment ticket" as "a share" of an investment stock.

8. Claims 9 and 27 recite the phrase "retaining rate" is not definite because a person of ordinary skill in the art would be uncertain what "retaining rate" means since it is unclear whether "retaining rate" means "the number of shares that an entity needs to maintain in order to keep the control of a company" and "the number of shares that an artist needs to maintain?", or what else? Paragraphs 163-164 and 175-179 discuss "retaining rate" but it still is unclear. The metes and bounds of the claims cannot be understood because of the lack of definiteness in the claim. For the examination purpose, the Examiner interprets the claims in light of this 112, second paragraph rejection.

9. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. Claims 19, 21-23, and 26 are rejected under 35 U.S.C. 102(e) as being anticipated by Fujimoto (U.S. Patent No. 6,018,720) ("Fujimoto").

Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

12. **With respect to claim 19**, Fujimoto teaches a data transmitting/receiving method comprising:

storing investment target data of an investment target in a server device (figures 1 and 2, col. 2, lines 46-65);

transmitting by the server device, price data of an investment ticket of the investment target data and the investment target data to a terminal device (see at least col. 3, lines 1-35, col. 9, lines 40-64, col. 10, lines 29-17 of col. 11);

receiving by the terminal device, the investment target data and the price data of the investment ticket (col. 8, lines 16-24, figure 1, col. 6, lines 22-35);

transmitting investment data for the investment target data from the terminal device to the server device (col. 8, lines 16-24, figure 1, col. 6, lines 22-35); and

transmitting data of a number of the investment tickets to be purchased from the terminal device to the server device in accordance with an operation by a user (see at least figures 3 and 4, col. 10, lines 8-57 of col. 12).

13. **With respect to claim 21**, Fujomoto teaches the data transmitting/receiving method as claimed in claim 19, further comprising accumulating the data of the number of investment tickets (see figures 3 and 4, col. 10, lines 8-57 of col. 12), and transmitting

notification data comprising at least one of the price of the investment ticket (see col. 10, lines 29-17 of col. 11), the total number of investment tickets (see figures 3 and 4, col. 10, lines 8-57 of col. 12), and the number of investors to another terminal device when the resultant total number of tickets exceeds a predetermined value (see figures 3 and 4, col. 10, lines 8-57 of col. 12).

14. **With respect to claim 22**, Fujimoto teaches the data transmitting/receiving method as claimed in claim 19, further comprising transmitting the investment target data from another terminal device to the server device (see col. 8, lines 16-24, figure 1), and

accumulating the investment target data transmitted from the another terminal device into the server device (see figures 3 and 4, col. 10, lines 8-57 of col. 12).

15. **With respect to claim 23**, Fujimoto teaches the data transmitting/receiving method as claimed in claim 19, further comprising:

transmitting by the server device, the investment target data to the terminal device in response to a request signal from the terminal device (see figure 1, col. 8, lines 16-19 of col. 9);

counting a number of transmission times of the investment target data (see figures 3 and 4, col. 10, lines 8-57 of col. 12);

accounting to a user who receives the investment target data when the number of transmission times exceeds a predetermined value (see col. 13, lines 49-62); and

causing the server device to stop accepting the investment data when the number of transmission times of the investment target data exceeds the predetermined value (see col. 13, lines 49-62).

16. **With respect to claim 26**, Fujimoto teaches the data transmitting/receiving method as claimed in claim 19, further comprising setting a retaining rate transmitted from another terminal device as the retaining rate of an investment ticket issuer of the investment target data (see col. 8, lines 16-24, figure 1).

***Claim Rejections - 35 USC § 103***

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claims 27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujimoto in view of Official Notice.

19. **With respect to claims 27-30**, these claims teach determining the retaining rate of the investment ticket issuer of the investment target data. The Examiner takes an Official Notice that investment retaining rate for an individual and company is old and well known in the investment business as described in the application (paragraph 175 where it says "similar to the case of ordinary stock certificates"). It would have been obvious to one of ordinary skill in the art at the time of the invention to include the

investment retaining rate feature into the teachings of Fujimoto to offer an improved system to customers.

20. Claims 32-33 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Fujimoto in view of Tagawa et al. (U.S. Patent No. 6,834,348) ("Tagawa").

21. **With respect to claims 32-33**, Fujimoto does not teach the floating price and lower and higher prices. However, Tagawa teaches that the data transmitting/receiving method as claimed in claim 19, wherein when selling and buying of investment tickets of the investment target data is carried out between investors, the server device causes a transaction to be made at a floating price (see figure 5, col. 11, lines 52-62), and wherein when selling and buying of investment tickets of the investment target data is carried out between investors, the server device causes a transaction to be made in the order of lower prices in the selling order and in the order of higher prices in the purchasing order (see at least figures 3 and 5, col. 11, lines 31-62).

22. Claims 1, 3, 5-7, 9-13, 15-18 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Fujimoto in view of Official Notice and further in view of Tagawa.

23. **With respect to claims 1, 3, 5-7, 9-13, and 15-18**, these claims are similar to claims 19, 21-23, 26-30, 32, 33 and have similar limitations. Hence, they are rejected under the same rationale provided in claims 19, 21-23, 26-30, 32, and 33.

### ***Conclusion***

24. Claims 1, 3, 5-7, 9-13, 15-19, 21-23, 26-30, 32, and 33 are rejected.




25. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Tran whose telephone number is (571) 272-7364.

The examiner can normally be reached on M-F, 9-4 PM.

26. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P. Trammell can be reached on (571) 272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

27. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HT

  
ELLA COLBERT  
PRIMARY EXAMINER